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WOODSTOCK, GA 30188

EXAMINER
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TANG, KAREN C

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* DAREN WILLIAM ATTWOOD and  
TIMOTHY EDMUND HASTINGS

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Appeal 2017-000337  
Application 10/742,876  
Technology Center 2400

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Before CAROLYN D. THOMAS, BRADLEY W. BAUMEISTER, and  
SHARON FENICK, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1, 2, 4–9, and 11–16, all the pending claims in the present application. Claims 3 and 10 are canceled. *See* Claims Appendix. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

The present invention relates generally to allowing distributed software applications to remain in synchronization with the current state of a system of data objects. *See* Spec. 1:6–8.

Claim 1 is illustrative:

1. A distributed event notification system, comprising:  
a server comprising a data synchronization server component;  
a plurality of objects stored in a server database at the server;  
a plurality of client machines, each client machine comprising:  
a data synchronization client component, and  
an application located on the client machine,  
wherein the application on any of the plurality of client machines can perform an action on any object in the plurality of objects; and  
a network through which the server and the plurality of client machines may communicate,  
wherein each data synchronization client component and the data synchronization server component perform[s] data synchronization over the network so that, when the action has been taken by the application at one of the plurality of client machines, a notification of the action is sent to the data synchronization server component, after which the data synchronization server component notifies each data synchronization client component having a registered interest in the object that the action has been performed, and  
wherein the application or the component of the client machine dynamically registers or removes an interest in an object type, a specific object, or an action performed on an object by using the system.

Appellants appeal the following rejections:

R1. Claims 1, 2, 4–9, 11, and 13–15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Robertson (US 6,269,369 B1, July 31, 2001), Mellen-Garnett (US 7,020,880 B2, Mar. 28, 2006), and Stoodley (US 2004/0078236 A1, Apr. 22, 2004); and

R2. Claims 12 and 16 are rejected under 35 U.S.C. § 103(a) as being

unpatentable over Robertson, Nixon (US 2003/0004952 A1, Jan. 2, 2003)  
and Jay (US 2003/0050802 A1, Mar. 13, 2003).

## ANALYSIS

**Issue:** Did the Examiner err in finding that Robertson teaches or suggests an application on any of the plurality of client machines can perform an action on any object in the plurality of objects, as set forth in claim 1?

Appellants contend that “[t]here is no disclosure, teaching or suggestion in Robertson . . . that would indicate that these systems are capable of allowing any client machine to perform an action on any object. . . . all of the systems described in Robertson require user-restrictions (App. Br. 5). Appellants further contend that Robertson “in fact teach[es] *away* from the instant claims since [it is] directed to systems which *restrict* user access to information and changing of information” (*id.* at 6) and because the “[t]he client machines in Robertson are thus user-restricted machines which only permit the user of the machine to modify the user’s own information” (*id.* at 7).

In response, the Examiner explains that Robertson discloses “where any clients machines [sic] ‘view/download/access’ the information from the server . . . (clients can view any of the objects information in the categories tables/plurality of objects . . . ) (Ans. 13) and the “user ‘can’ elect[] to receive notifications on all the objects that is changed in the system” (*id.* at 14). We agree with the Examiner.

As an initial matter, the Examiner highlights, and we agree, that “the limitations at issue[] only [recite] that the client machines ‘can’ perform an

action on any object . . . but the client machines do[] not ‘actually’ perform action on any object” (Ans. 16) (*see* claim 1). In other words, claim 1 merely recites that the application *can* perform an action. We have previously held that findings made by an Examiner’s need not show a prior art relied upon teaches or suggests a conditional/optional step (e.g., “can be”) recited in a claim. *See Ex parte Katz*, 2011 WL 514314, \*4 (BPAI 2011) (non-precedential) (citing *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004)). *See also* MPEP § 2111.04 (claim scope is not limited by claim language that suggests or makes optional, yet does not require steps to be performed). For example, claim 1 merely recites “the application on any of the plurality of client machines *can* perform an action on any object in the plurality of objects” (*see* claim 1) (emphasis added), not that the application is actually performing an action on any object.

As a result, the Examiner merely needs to show that in Robertson’s system an application on any of the client machines is *capable of* performing an action on any object stored in a server database. To illustrate this, the Examiner points out, and we agree, that when there are no restrictions provided, “Robertson’s system application has the ability to conduct ‘an action’ on any object in the plurality of objects” since the restriction features is only dependent on user preferences (*see* Final Act. 2; *see also* Ans. 14).

In other words, the user’s preference in Robertson can allow all other users to perform an action (i.e., view/access the user’s information on a server) on any object (“The personal contact manager system allows each user to specify on an individual basis which of their contacts are permitted to access respective datums of their user information” (Robertson, Abstract)).

The mere fact that some users *can* be restricted does not dismiss the possibility that none of the users are restricted.

Thus, we find unavailing Appellants' contention that Robertson is "directed to systems which *restrict* user access to information and changing of information" (*see* App. Br. 6), given the aforementioned preference driven disclosure in Robertson. We further note that claim 1 does not require modifying of information as argued by Appellants (App. Br. 7), but merely requires that the application "perform an action," which we find reasonably includes merely accessing/viewing an object.

Accordingly, we sustain the Examiner's rejection of claim 1. Appellants' arguments regarding the Examiner's rejection of independent claims 8 and 12 rely on the same arguments as for claim 1, and Appellants do not argue separate patentability for the dependent claims. *See* App. Br. 4–9. We therefore also sustain the Examiner's rejection of claims 2, 4–9, and 11–16.

#### DECISION

We affirm the Examiner's § 103(a) rejections R1 and R2.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED